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April 14, 2015

Martin and Caron Moritz
c/o Paul Rajkowski
Rajkowski Hansmeier
11 7th Avenue North
P.O. Box 1433
St. Cloud, MN 56302

AX-15-000-2239

2015 APR 20 AM 7:49
EXECUTIVE SUITE AREA
OFFICE OF THE
CLERK OF THE
COURT

RE: CWA Notice of Citizen Suit

Dear Mr. Rajkowski:

As you know, I represent Raphael McDevitt Kraljic and Mary McDevitt Kraljic (the "McDevitt Kraljics"). I write to you, as counsel for Martin and Caron Moritz (the "Moritzes"), to provide notice to the Moritzes of violations of the CWA in accordance with 33 U.S.C. § 1365(b) (2014), because under the Rules of Professional Responsibility, I cannot write to them directly because they are represented by counsel.

By way of background for the EPA and MPCA, the McDevitt Kraljics are husband and wife residing at 10159 201st Ave NW, Elk River, MN 55330 (telephone no. 763-441-6229). The McDevitt Kraljics own two adjoining parcels of property, a five acre parcel and a 40 acre parcel. The two parcels form an "L" with the five acre parcel forming the bottom and the 40 acre parcel forming the top.

The McDevitt Kraljics' two parcels are legally described as The Southwest Quarter of the Northwest Quarter (SW ¼ of NW ¼), Section 24, Township 33, Range 26 Sherburne County, Minnesota, and that part of the SE ¼ of the NW ¼ of Section 24, Township 33, Range 26, described as follows: Commencing at the SW corner of the said SE ¼ of the NW ¼; thence North on and along the West line thereof a distance of 435 feet; thence East and parallel with the South line thereof a distance of 500 feet; thence South and parallel to the West line thereof a distance of 435 feet or to the South line thereof; thence Westerly on and along said South line to the point of beginning (the "McDevitt Kraljic Property").

Trott Brook is a navigable waterway and tributary to the Rum River. Trott Brook enters the property of the McDevitt Kraljics from the north of the five acre parcel.

Martin and Caron Moritz (the "Moritzes") are husband and wife, residing at 20541 Twin Lakes Road NW, Elk River, MN 55330. The Moritzes own real property that borders on the North and East side of the McDevitt Kraljic Property (the "Moritz Property"). Trott Brook flows over the Moritz Property before entering the McDevitt Kraljic Property.

In the fall of 2012, the Mortizes, through their agents, dredged, placed fill, and inserted culverts in the middle of Trott Brook. Both the dredge and fill are considered "other waste" under Minnesota law. MINN. STAT. § 115.01 (2015). As such, the Moritzes may not release the dredge or use fill in a manner that constitutes a nuisance condition. See MINN. R. 7050.0210 (2015). The placement of the dredge and use of fill have resulted in significant amounts of floating solids, suspended solids, deposits, erosion, and aquatic habitat degradation and is a nuisance. In this manner the Moritzes have violated the effluent standards of Minnesota.

Section 301 of the Clean Water Act ("CWA") prohibits the discharge of *any* pollutant by *any* person, unless it complies with the provisions of the CWA. 33 U.S.C. § 1311 (2014). The Moritzes have and continue to violate section 301 by allowing pollutants to be discharged into Trott Brook.

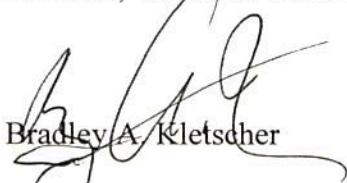
The Moritzes did not obtain a permit from the Army Corp. of Engineers before placing dredging and filling Trott Brook and inserting culverts in violation of CWA section 404. In April of 2013, the Moritzes obtained a permit after the fact from the Minnesota Department of Natural Resources. The permit allows the Mortizes to "conduct sediment and vegetation removal," to cast spoils on site, and to maintain a culvert along the watercourse. While the permit allows for the maintenance of a culvert, it does not allow for the construction of the culvert. The Moritzes are not within the parameters of their permit.

These continuing violations of the CWA by the Mortizes have caused pollution to flow downstream and erosion on the property of the McDevitt Kraljics.

This letter shall serve as notice of the above described violations of the CWA in accordance with 33 U.S.C. § 1365(b) (2014).

Sincerely,

BARNA, GUZY & STEFFEN, LTD.



Bradley A. Kletscher

BAK/twe

cc: Gina McCarthy, Administrator, EPA
Susan Hedman, Region 5, EPA
John Linc Stine, Commissioner, MPCA
Raphael and Mary McDevitt Kraljic